Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

No. 80-968

IN THE

Supreme Court of the United States

OCTOBER TERM, 1980

THE CITY OF DETROIT,
a municipal corporation,
Plaintiff-Appellant,
v.
DETROIT POLICE OFFICERS ASSOCIATION,
an unincorporated labor organization,
Appellee,
and
GEORGE E. BOWLES, AUBREY McCUTCHEON
and WILLIAM L. KIRCHER,
Appellees,
and
DETROIT FIRE FIGHTERS ASSOCIATION
Appellee.

APPEAL FROM THE SUPREME COURT OF
THE STATE OF MICHIGAN

MOTION OF DETROIT POLICE OFFICERS ASSOCIATION TO DISMISS OR AFFIRM

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The Detroit Police Officers Association, one of the appellees in the above matter, respectfully moves the Court to dismiss the appeal herein or, in the alternative, to affirm the judgment of the Supreme Court of Michigan

because the appellant lacks standing to process the appeal and it does not present a substantial federal question.

APPELLANT LACKS STANDING TO PROCESS THIS APPEAL

The appellant City of Detroit is a municipal corporation located in the State of Michigan. In this appeal it claims that Michigan's Compulsory Arbitration Law, 1969 PA 312, as amended, violates Fourteenth Amendment standards of equal protection and due process. It has been well established by decisions of this Court that a political subdivision of a state may not challenge the validity of a state statute under the Fourteenth Amendment. *Williams v. Mayor & City Council of Baltimore*, 289 U.S. 36, 40, 53 S. Ct. 431, 432, 77 L.Ed 1015 (1933).

THE DUE PROCESS ARGUMENT

No due process question was even raised in the courts below. The question was whether or not there was an improper delegation of legislative authority. (Appellant's Jurisdictional Statement p. 4). A state statute involving an unconstitutional delegation of legislative power does not present a federal question. *Ohio ex rel Bryant v. Akron Metropolitan Park District*, 281 U.S. 74, 50 S. Ct. 228, 74 L.Ed 710 (1930); *Neblett v. Carpenter*, 305 U.S. 297, 302, 59 S. Ct. 170, 83 L.Ed 182 (1938).

THE EQUAL PROTECTION ARGUMENT

The equal protection argument is without merit. The Fourteenth Amendment guarantees that "a citizen has a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction." *Dunn v. Blumstein*, 405 U.S. 330, 336, 92 S. Ct. 995, 1000, 31 L.Ed 2d 274 (1973). Appellant does not claim that its citizens are treated any differently than other citizens of Michigan. Moreover, the principle of "one man one vote" has no relevancy to appointed boards with administrative duties. *Sailors v. Board of Education*, 387 U.S. 105, 87 S. Ct. 1549, 18 L.Ed 2d 650 (1967).

CONCLUSION

For the reasons stated herein, this appeal should be either dismissed or affirmed.

Respectfully submitted,

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